

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

NICHOLAS AUSTIN HOYLE

Plaintiff,

v.

JAMES S. WRIGHT, *et al.*

Defendants.

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CIVIL ACTION NO. 23-0899

ORDER

AND NOW, this 4th day of April, 2023, upon consideration of Nicholas Austin Hoyle's Motion to Proceed *In Forma Pauperis* [Doc. No. 1], Prisoner Trust Fund Account Statement [Doc. No. 3], and *pro se* Complaint [Doc. No. 2], it is hereby **ORDERED** that:

1. Leave to proceed *in forma pauperis* is **GRANTED** pursuant to 28 U.S.C. § 1915.
2. Nicholas Austin Hoyle, #21004927, shall pay the full filing fee of \$350 in installments, pursuant to 28 U.S.C. § 1915(b), regardless of the outcome of this case. The Court directs the Warden of George W. Hill Correctional Facility or other appropriate official to assess an initial filing fee of 20% of the greater of (a) the average monthly deposits to Hoyle's inmate account; or (b) the average monthly balance in Hoyle's inmate account for the six-month period immediately preceding the filing of this case. The Warden or other appropriate official shall calculate, collect, and forward the initial payment assessed pursuant to this Order to the Court with a reference to the docket number for this case. In each succeeding month when the amount in Hoyle's inmate trust fund account exceeds \$10.00, the Warden or other appropriate official shall forward payments to the Clerk of Court equaling 20% of the preceding month's income credited to Hoyle's inmate account until the fees are paid. Each payment shall refer to the docket number for this case.

3. The Clerk of Court is **DIRECTED** to send a copy of this Order to the Warden of George W. Hill Correctional Facility.
4. The Complaint is **DEEMED** filed.
5. For the reasons states in the Court's Memorandum, Hoyle's Complaint is **DISMISSED** as follows:
 - a. Hoyle's federal claims are **DISMISSED WITH PREJUDICE** for failure to state a claim, pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii).
 - b. Hoyle's state claims are **DISMISSED WITHOUT PREJUDICE** to Hoyle pursuing those claims in state court.
6. The Clerk of Court shall **CLOSE** this case.

It is so **ORDERED**.

BY THE COURT:

/s/ Cynthia M. Rufe

CYNTHIA M. RUFÉ, J.